

AUG. 9. 2004 12:58PM

RMS Patent Department

NO. 340 P. 4

Atty Docket: 18242-US1
Serial No. 09/756,743
Filed January 10. 2001
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REMARKS

I. Status of the Claims

Claims 23 and 26 are amended. Claims 13-18, which were withdrawn from consideration, are canceled. Thus, claims 23-28 are pending with entry of this Amendment.

II. Support for Amendment of the Claims

The amendments find support in the specification, drawings and claims as originally filed. The amendment to claim 23 was made to correct a typographical error, at the suggestion of the Examiner. The amendment to claim 26 was also made at the suggestion of the Examiner, to clarify that the sample referred to in that claim is the sample recited in claim 23, from which claim 26 depends. Support for the amendments to the claims can be found at page 7, second and fourth paragraphs, respectively. Accordingly, Applicants submit that the amendments to the claims are fully supported by the specification as filed.

III. Objection to the Specification

The specification was objected to on the basis that the Abstract was not sufficiently descriptive of the disclosure. Applicants have amended the Abstract in accordance with the Examiner's suggestion. Accordingly, Applicants request withdrawal of the objection to the specification.

IV. Rejections under 35 U.S.C. § 112, second paragraph

The Office objected to claim 26 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Claim 26 has been amended in accordance with the Examiner's suggestion. Reconsideration and withdrawal of the rejection of claim 26 under 35 U.S.C. §112, second paragraph is respectfully requested.

V. Rejection for Obviousness-Type Double Patenting

Claims 23-28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of US Patent No. 6,255,477. Claims 23-28 were also rejected under obviousness-type double patenting as being unpatentable over claims 1-27 of US Patent 6,562,568 in view of claims 1-11 of US Patent No. 6,255,477. In response, Applicants submit herewith two terminal disclaimers that disclaim the term of any

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patent that issues from the present application over the terms of US Patents 6,562,568 and 6,255,477. Accordingly, Applicants request withdrawal of the rejections for obviousness-type double patenting.

VI. CONCLUSION

For the above reasons, Applicants submit that all of the pending and presently considered claims are in condition for allowance. Thus, Applicants respectfully request issuance of a Notice of Allowance. Should the Examiner believe that a telephone conference would expedite consideration of this application, he is invited to contact the undersigned at the number listed below.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 50-0812. Please address all correspondence regarding this matter to Customer No. 22829.

Respectfully submitted,

Date: 8/9/04

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